

## **Senate Bill No. 2102**

### **CHAPTER 229**

An act to amend and repeal Section 114350 of the Health and Safety Code, relating to agriculture.

[Approved by Governor July 20, 1996. Filed with  
Secretary of State July 22, 1996.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 2102, Committee on Agriculture and Water Resources. Certified farmers' markets.**

Existing law, the California Uniform Retail Food Facilities Law, regulates sanitary standards in retail food establishments, including certified farmers' markets and vehicles selling food. Existing law prohibits food preparation at certified farmers' markets. Existing law imposes the primary responsibility for the enforcement of this law on local health agencies, and provides that the willful violation of any of these provisions is a misdemeanor.

Existing law, until January 1, 1997, also provides an exception to this prohibition for food samples if certain sanitary conditions are met, including the use of potable water for hand washing and sanitizing and the disposal of utensils and hand washing water in a manner approved by the local enforcement agency. Existing law, until January 1, 1997, also authorizes vendors selling food adjacent to and under the jurisdiction and management of a certified farmers' market to store, display, and sell food from a table or display fixture apart from the vehicle in a manner approved by the local enforcement agency.

This bill would delete the January 1, 1997, repeal date for these exceptions, thereby extending the existing law indefinitely.

To the extent that this bill would continue the duties of local public health agencies and local enforcement agencies, this bill would impose a state-mandated local program. Also, by continuing indefinitely the imposition of requirements on certified farmers' markets, the bill would expand the scope of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that for certain costs no reimbursement is required by this act for a specified reason.

However, the bill would provide that, if the Commission on State Mandates determines that this bill contains other costs mandated by

the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

*The people of the State of California do enact as follows:*

SECTION 1. Section 114350 of the Health and Safety Code is amended to read:

114350. Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 113975) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of the food samples. Distribution of food samples is allowed provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed, or cleaned in another manner, of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Potable water shall be available for hand washing and sanitizing as approved by the local enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45 degrees fahrenheit. All other food samples shall be disposed of within two hours after cutting.

(7) Utensil and hand washing water shall be disposed of in a facility connected to the public sewer system or in a manner approved by the local enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleaned or disposed of as approved by the local environmental health agency.

(c) Approved toilet and hand washing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

(f) Notwithstanding Article 11 (commencing with Section 114250), vendors selling food adjacent to and under the jurisdiction

and management of a certified farmers' market may store, display, and sell from a table or display fixture apart from the vehicle, in a manner approved by the local enforcement agency.

SEC. 2. Section 114350 of the Health and Safety Code is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

